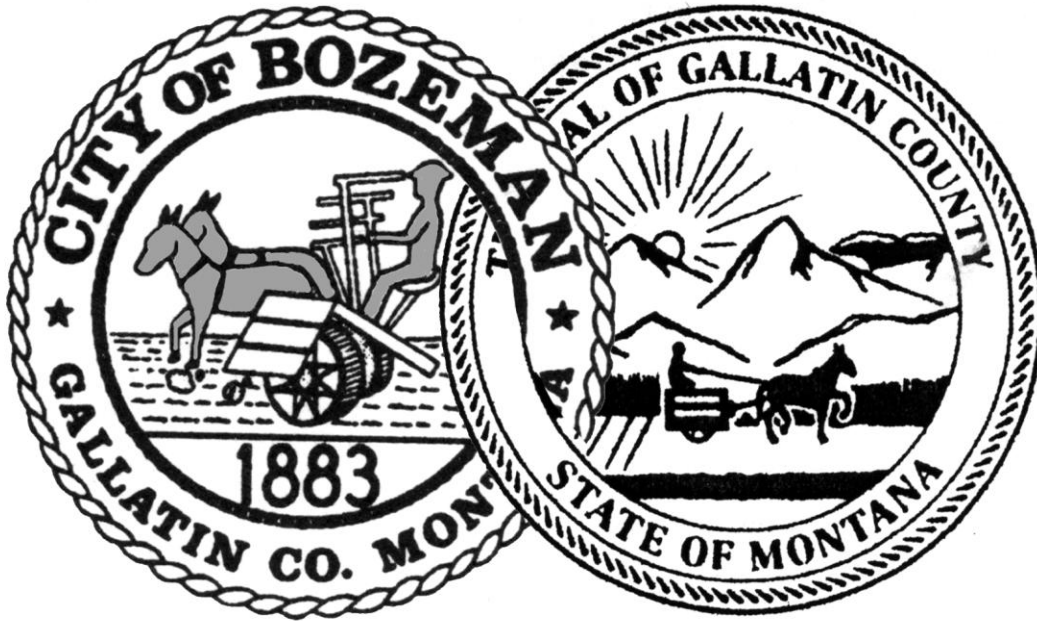


# **Gallatin City-County Health Code**

## **Chapter 4**



**Regulations for  
Public Accommodations  
Swimming Pools/Spas  
Body Art Facilities**

**Gallatin City-County Health Department  
Environmental Health Services**

**Effective: November 21, 2009**

**CHAPTER 4 – REGULATIONS FOR: PUBLIC ACCOMMODATIONS  
SWIMMING POOLS/SPAS  
BODY ART FACILITIES**

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## **SECTION A – GENERAL REQUIREMENTS**

### **A-01. GENERAL PURPOSE**

Local rules make existing laws more accessible and understandable and provide local procedures that comply with State law. Their purpose is to prevent and eliminate conditions and practices that endanger public health in Gallatin County. The rules are adopted to help educate the public and owners/operators about public health laws and to help facilitate compliance with those laws.

Refer to Health Code Chapter 1 and 2 for definitions.

### **A-02. GENERAL AUTHORITY**

- A.** The Gallatin City-County Board of Health (Board) may adopt rules to control communicable diseases, if as stringent as, and not in conflict with rules adopted by the Montana Department of Public Health and Human Services (DPHHS) in Administrative Rules of Montana (ARM) Title 37, Chapter 111 subchapter 1 and 11, Montana Code Annotated (MCA) 50-2-116(2), MCA 50-51-102, MCA 50-53-102 and ARM 37.114.102
- B.** The Board finds that the critical violations noted in the inspection report pertain to the control and prevention of communicable diseases and to the safety of the public. It is appropriate to adopt rules regarding the control and prevention of communicable diseases. It is also appropriate to adopt rules to protect the safety of the public. These rules include, but are not limited to, closing establishments that create an imminent danger or that pose multiple risk factors or critical violations.
- C.** If conflicts or inconsistencies exist between referenced and other sources, the Gallatin City-County Health Department (GCCHD) will determine the appropriate requirement, interpretation or administrative procedure that is consistent with the requirements and intent of sound public health and consumer safety practices.
- D.** The GCCHD may establish policies and/or procedures to address new technology or industry trends that pertain to the safety and protection of public.

#### **E. Fees**

The Board has the ability to set fees for services provided by the GCCHD. Establishments and the public will be charged according to the fee schedule adopted by the Board.

Fees and fines are subject to change following review and adoption by the Board at any public meeting for which public notification has been given.

### **A-03. EFFECTIVE DATE**

All provisions established under this regulation shall become effective as of November 21, 2009.

### **A-04. GENERAL REQUIREMENTS**

- A.** The GCCHD phone number, (406) 582-3120, must be prominently displayed near the primary phone accessible by management and staff.
- B.** Section A applies to all subsequent sections of this chapter.
- C.** All establishments and/or applicants are required to comply with the Gallatin City-County Health Code – Chapters 1, 2, and 3, as well as all other local, state and federal rules and regulations that may apply.
- D.** Conditions or situations not explicitly covered by applicable state or local regulations may be addressed on a case-by-case basis by a GCCHD Inspector.
- E.** Existing establishments may be required to provide written documentation to ensure that water and wastewater systems are functioning and maintained properly. The GCCHD may require system improvements if found to be out of compliance with state and local requirements.

### **A-05. PLAN REVIEW**

The purpose of the plan review packet is to provide a service and opportunity to review plans in order to assist with compliance with state and local regulations prior to construction or remodeling. Plans may be submitted to Montana Department of Public Health and Human Services, Food and Consumer Safety Section, PO Box 202951, Helena, Montana 59620. The GCCHD offers plan review services with an expedited thirty (30) day review time. See fee schedule for applicable plan review fees that apply to this service.

If an applicant elects to use the GCCHD to complete a plan review, a plan review packet must be submitted and approved by the GCCHD when there is:

- New construction
- Renovation of an existing structure into an establishment requiring licensure
- A remodel, restoration, upgrade or expansion of an existing licensed establishment

## **A. Review of Applications**

1. At the GCCHD's discretion, review of larger and/or more complicated facility plans may be forwarded to the DPHHS.
2. The GCCHD shall review applications on a "first come/first served" basis.
3. The GCCHD will attempt to expedite the review of applications but reserves the right to a review period of thirty (30) calendar days from the date a complete application is received.
4. Review of an application will result in one of the following:
  - a. An issued approval to construct, or
  - b. If upon review the application is found to be incomplete or additional information is required, the GCCHD will provide in writing an outline of additional information required. The applicant will have thirty (30) days from the date of the letter to respond.
    - i. One thirty (30) day extension of the original response period may be granted, at the GCCHD's discretion, if a written extension request is submitted before the initial thirty (30) day period has passed. The written request must state the reason(s) the time extension is needed.
    - ii. Should the GCCHD need to write a second request for additional information related to the same project, the applicant will have fifteen (15) days to respond. If the required information is not received, the GCCHD may deny the application.
  - c. A denial of the application will include written reason(s) for the denial.
5. If upon review the application is found to be incomplete or additional information is required, the thirty (30) day review period will recommence from the date the GCCHD receives the required information.
6. Construction may not commence until all plans required by this rule have been approved by the DPHHS or the GCCHD. Construction must be in accordance with the plans as approved unless permission is granted by the DPHHS or the GCCHD to modify the plans.
7. Plan review approvals will be valid for a period not to exceed 24 months, after which time, the approval will be voided if construction has not begun. Upon written request the GCCHD, at their discretion, may grant an extension under extenuating circumstances.

8. If a plan review has been voided, the applicant must reapply and comply with all regulations in effect at the time of the new submittal. Fees from voided plan review approvals are non-refundable and can not be applied toward a new plan review.
9. If an establishment covered under these regulations renovates, remodels, expands or changes ownership, the structure and equipment must meet current requirements.

## **B. Pre-Opening Inspections**

The GCCHD shall inspect and approve every new, converted, renovated, remodeled or expanded establishment before operations begin, to determine compliance with the plan review and public health laws.

The Health Officer, Director or designee may issue a written authorization to open an establishment on a temporary basis if extenuating circumstances exist. Specific conditions or requirements may be imposed.

## **C. Fees**

1. If an applicant elects to use the GCCHD to complete a plan review, plan review fees must be submitted with the plan review packet. See fee schedule (Section F). The plan review fee includes one (1) initial pre-opening inspection. Additional inspections may be required or requested and special inspection fees will apply.
2. The GCCHD may charge a special inspection fee for non-routine inspections including follow-up inspections (see fee schedule).

Failure to pay the special inspection fee within thirty (30) days of the inspection is a violation of these rules. The Health Officer may refuse to validate a license.

# **A-06. INSPECTIONS, REPORTS, CORRECTIONS**

## **A. Inspections**

The GCCHD shall investigate and inspect facilities in Gallatin County as often as necessary to enforce state and local rules.

The GCCHD shall conduct Public Accommodation and Swimming Pool/Spa inspections as required by MCA, ARM's or agreement with the DPHHS. Body Art establishments licensed under this Chapter will be inspected at a minimum of once per year based on risk.

Inspection results may be appealed to the Environmental Health Director. If the issue remains unresolved, the Health Officer may hear the appeal.

The GCCHD Inspectors, after showing proper identification, must be permitted to enter any establishment at reasonable times, whether licensed or not, to inspect for compliance with public health laws.

## **B. Inspection Reports**

Inspection data and comments must be recorded in an easily readable form, which summarizes the requirements of the Administrative Rules of Montana and this Chapter.

Inspection report remarks shall state the requirement(s) violated and the correction(s) to be made. A copy of the completed inspection report must be given to the person-in-charge at the end of the inspection. If the person-in-charge refuses to accept the inspection report, a copy will be left on the premises and this fact will be noted in the report remarks.

## **C. Public Documents**

Completed inspection reports are public documents and are available for public review and copying at cost.

## **D. Corrections to Violations**

Failure to make corrections within the time limits noted on the inspection report is a violation of these rules and may result in the establishment being closed. The following are the general time limits for correcting violations:

1. Critical violations found to have a direct impact to public health or safety must be corrected at the time of the inspection. The conditions or violations causing an imminent health hazard must be immediately corrected or the establishment shall be closed. Failure to immediately correct the critical violation(s) or to submit and implement an acceptable plan of correction may result in the immediate closure of the establishment.
2. Critical violations found not to directly impact public health or safety must be corrected as soon as possible, but no more than ten (10) calendar days from the inspection date, unless an imminent health hazard is present.
3. An establishment with four (4) or more critical violations in a single inspection, without an imminent health hazard, must initiate corrective action on identified violations as soon as possible. Unless the establishment corrects the noted critical

violations or submits an acceptable plan of correction for the critical violations within forty-eight (48) hours it may be closed.

4. Non-critical violations must be corrected as soon as possible as outlined in the inspection report. In any event, these must be corrected by the time of the next routine inspection.
5. Failure to comply with any time limits for corrections of critical violations may result in a follow-up inspection.
6. Follow-up inspections (if needed) will be conducted within (10) days of initial inspection to verify that any critical violations have been corrected. A special inspection fee may be charged by the GCCHD for follow-up inspections.

## **A-07. CLOSURE**

### **A. Closing and Reopening Establishments**

#### **1. Notice of Closure**

A Notice of Closure is effective upon delivery and customers must not be served thereafter.

- (a) The Health Officer or designee shall post a Notice of Closure at each entrance of the establishment.
- (b) No person shall remove, cover or alter a Notice of Closure, except by direction of the Health Officer or designee.
- (c) No person shall operate an establishment that has a Notice of Closure.

#### **2. Critical Violations Causing an Imminent Health Hazard**

- (a) If a Critical Violation creates an imminent danger to public health and is not corrected immediately or an approved alternative procedure is not initiated immediately by the person-in-charge, then the GCCHD Inspector may request that the Health Officer or designee order the establishment to be closed.
- (b) An imminent health hazard may exist because of an emergency. Examples include, but are not limited to, a fire, flood, extended interruption of electrical or water service, water contamination, sewage backup, misuse of poisonous or toxic materials, onset of an apparent illness outbreak, gross unsanitary occurrence or condition, or other circumstance that may endanger public health.



3. Failure to Correct Critical Violations or Provide an Adequate Plan of Correction on a Follow-up Inspection

- (a) If a licensed establishment fails to correct Critical Violation(s) indicated on a regular or follow-up inspection, or provide an adequate plan of correction upon consultation with the GCCHD, then the Health Officer or designee may order the establishment closed.

4. Reopening Closed Establishment

The establishment may be reopened and the Notice of Closure signs removed by the Health Officer or designee if the following conditions are met:

- (a) The person-in-charge has submitted an acceptable written Plan of Correction to the GCCHD, specifying the corrections to be made and the time limits for their completion;
- (b) The Plan of Correction is approved by the GCCHD;
- (c) A special inspection shows no Critical Violations not already covered by the plan of correction; and
- (d) Special inspection fees are paid to the GCCHD for subsequent inspections.

## **SECTION B - LOCAL PUBLIC ACCOMMODATION RULES**

### **B-01. ADOPTION OF STATE RULES**

The GCCHD adopts by reference the following Administrative Rules of Montana (ARM):

**A.** ARM 37, Chapter 111, Subchapter 1 for Hotels, Motels, Tourist Homes, Retirement Homes, Rooming Houses, and Boarding Houses

**B.** ARM 37, Chapter 111, Subchapter 3 for Bed and Breakfast Establishments

**C.** ARM 37, Chapter 111, Subchapter 11 for Swimming Pools and Spas if the licensed Public Accommodation has either a Pool or a Spa as defined in ARM 37.111.11.

**D.** ARM 37, Chapter 110, Subchapter 2 for Food Service Establishments (if applicable). Where food service is operated as an integral part of a Public Accommodation they must comply with ARM 37.110.2

A Public Accommodation that offers only a continental breakfast is exempt from licensing under ARM 37.110.2.

A continental breakfast means a breakfast meal restricted to the foods listed below. Additional foods may be allowed with prior approval from the GCCHD.

1. Beverages such as coffee, tea and fruit juices
2. Grade A Pasteurized milk and milk products
3. Whole fresh fruit
4. Commercially processed fruits
5. Baked goods, such as pastries, rolls, breads, toaster waffles and muffins which are non-potentially hazardous
6. Cereals, cold and instant oatmeal
7. Jams, jellies, honey and syrup
8. Butter and non-dairy products such as coffee whiteners and margarine
9. Commercially manufactured cheese, and cream cheese

## **B-02. PLAN REVIEW PACKET**

Plan review packet must include the following:

1. Location and detail of storage rooms used for extra bedding and furnishings;
2. Location and detail of janitorial facilities;
3. Specifications for the water supply to serve the establishment unless the water supply has been previously approved by the GCCHD;
4. Specifications for the sewage treatment and disposal system to serve the establishment unless the sewage treatment and disposal system has been previously approved by the GCCHD;
5. Location and detail of laundry facilities including description of equipment, floor and wall finish material, and a flow chart indicating the route of laundry through sorting, washing, drying, ironing, folding and storage;
6. Name of approved sanitary landfill which will receive solid waste from the establishment;
7. For a continental breakfast complete a food service application;
8. The establishment must have adequate equipment and/or procedures to properly collect and dispose of fats, oils and grease. Grease separation must follow local and municipal ordinances. A grease separation unit must meet minimum standards as addressed in the Uniform Plumbing Code. The GCCHD must approve the location, size, and type of grease separation unit.
9. Evidence of approval by the building authority;
10. Evidence of approval by the fire authority; and
11. Any other information requested by the DPHHS or the GCCHD.
12. Specifications for pools and /or spas that serve the establishment must be approved under separate plan review.

## **B-03. ENFORCEMENT AND PENALTIES**

### **A. Violations of State Criminal Laws**

Any person violating any provision of this chapter or regulation made hereunder, except MCA 50-51-107, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 or more than \$100 for the first offense and not less than \$75 or more than \$200 for the second offense and for the third and subsequent offenses not less than \$200 and by imprisonment in the county jail not to exceed 90 days. MCA 50-51-106

### **B. Civil Penalties**

1. An establishment that violates this chapter or rules adopted by the Department (DPHHS) pursuant to this chapter is subject to a civil penalty not to exceed \$500.
2. Penalties may not be assessed against a guest ranch or outfitter and guide facility unless the guest ranch or outfitter and guide facility receives a written notice of a violation and fails to correct the violation within 30 days.
3. Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the Department (DPHHS) pursuant to this chapter. MCA 50-51-401

### **C. Costs and Expenses**

In a civil action initiated by the Department (DPHHS) or a county (GCCHD) under this chapter, the court may, by petition of the Department (DPHHS) or county (GCCHD), order an establishment that is found in violation of this chapter or rules adopted under this chapter to pay the costs of investigations and any other expenses incurred in enforcing the provisions of this chapter. MCA 50-51-403

## **SECTION C – LOCAL SWIMMING POOLS/ SPAS RULES**

### **C-01. ADOPTION OF STATE RULES**

- A. The GCCHD adopts by reference ARM Title 37, Chapter 111, Subchapter 11 for Swimming Pools and Spas.

### **C-02. PLAN REVIEW PACKET**

- A. The GCCHD adopts by reference the Plan review requirements in ARM 37.111.11.

B. Any other information requested by the DPHHS or the GCCHD.

### **C-03. ENFORCEMENT AND PENALTIES**

#### **A. Violations of State Criminal Laws**

A person who violates this chapter or rules adopted by the Department (DPHHS) under the provisions of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 or more than \$500, imprisonment for not more than 6 months, or both. Each day that a violation continues is a separate violation.  
MCA 50-53-109

#### **B. Civil Penalties**

MCA 50-53-216 Civil penalties -- other enforcement not barred.

(1) A person who violates a provision of part 1, this part, department rules implementing those sections, an order of the department, or any condition of a license issued by the department is subject to a civil penalty not to exceed \$500 for each violation.

(2) An action for collection of a civil penalty under this section does not bar administrative enforcement under MCA50-53-212, an action for injunctive relief under MCA50-53-104, or enforcement under MCA50-53-109.

#### **C. Costs and Expenses**

In a civil or criminal action brought by the department (DPHHS) or a local jurisdiction (GCCHD) to enforce the requirements of part 1 and this part, the rules of the department, or any condition of a license or to assess civil penalties and in an action brought by the department (DPHHS) to enforce an order of the department (DPHHS), the court may, in the case of an intentional violation of part 1 and this part, assess the operator of the public swimming pool or public bathing place for the costs of any investigation and the costs of the civil or criminal action, including reasonable attorney fees. MCA 50-53-217

## **SECTION D – LOCAL BODY ART RULES**

### **D-01. Purpose**

The Board and the GCCHD realize and understand there are health and safety risks associated with the procedures and practices of tattooing and body piercing modification. Safe and sanitary conditions of tattoo, piercing and other body modification practices are necessary for the prevention of the transmission of blood-borne pathogens such as Hepatitis

B and Human Immunodeficiency Virus as well as other potentially life threatening diseases. These rules are intended to protect public health, safety and welfare by setting forth minimum standards for the practice of tattooing and piercing within Gallatin County.

## **D-02. AUTHORITY AND SCOPE OF REGULATIONS**

- A. These regulations have been written pursuant to Montana Code Annotated (MCA) 50-48-203, which authorizes the GCCHD to approve and implement licensure and regulatory program in lieu of Administrative Rules of Montana (ARM) 37.112.1 but in accordance with MCA 50-48-203.
- B. These regulations cover all tattoo shops, tattoo parlors, temporary or mobile tattoo facilities, and the “practice of tattooing” in Gallatin County.
- C. These regulations cover all piercing shops, piercing parlors, temporary or mobile piercing facilities and the “practice of piercing” in Gallatin County.
- D. Any licensing of a tattoo or piercing studio within Gallatin County pertains only within the boundaries of Gallatin County, and the jurisdictions of the Gallatin City-County Board of Health.
- E. The GCCHD may require of the applicant, through the licensing process, verification of compliance, or the ability to comply with other agencies, laws, rules or regulations, where deemed pertinent by the GCCHD.

## **D-03. RULES AND REGULATIONS**

The GCCHD adopts by reference ARM Title 37, Chapter 112, Subchapter 1, except the following sections which are replaced by this chapter: 37.112.151, 37.112.152, 37.112.156, and 37.112.157.

## **D-04. PLAN REVIEW PACKET**

The plans and specifications must demonstrate how the establishment will meet the requirements of this rule, including the following:

1. A layout of work rooms, waiting areas, auxiliary rooms, bathrooms, hand washing facilities, doorways, stairways, fixed equipment, and facilities;
2. Specifications for any autoclave that may be used, including manufacturer and model number;
3. Copies of the client consent form and client record form;

4. Copies of formal training documentation as described in ARM 37.112.147; and
5. Any other information requested by the DPHHS or the GCCHD.

#### **D-05. LICENSE APPLICATION**

- A. Any person desiring to operate an establishment shall submit an application for a license on forms provided by the GCCHD. The application must include the name and address of the applicant, and the location and type of proposed establishment.
- B. The applicant for license and all artists working in the proposed establishment shall be at least 18 years of age at the time of application.
- C. The GCCHD will issue a license to the applicant if the applicant demonstrates that the proposed establishment complies with all applicable requirements of this chapter by plan review, inspection, and upon receipt of the license fee.
- D. The applicant must satisfy all other applicable requirements from other federal, state, or local agencies. These requirements may include, but are not limited to:
  1. Building code permits and inspections;
  2. Fire and life safety inspections; and
  3. Any other business licenses required.

#### **D-06. LICENSE EXPIRATION**

- A. See fee schedule (Section F)
- B. License will expire annually on December 31, following the date issued.

#### **D-07. LICENSE REVOCATION**

- A. The GCCHD may suspend or revoke a license if it finds, after proper investigation that the licensee has violated MCA 50-50 or Administrative Rule adopted by the GCCHD and the licensee has failed or refused to correct violations relating to MCA 50-50-2.
- B. The GCCHD may after giving an opportunity for a hearing, revoke a license for serious or repeated violations of MCA 50-50-2, ARM 37.112 (1), this chapter, or for interference with the GCCHD inspector in the proper execution of their duties.

## **D-08. ENFORCEMENT AND PENALTIES**

### **A. Violations of State Criminal Laws**

A person who purposefully or knowingly violates any provision of this chapter or rules adopted under MCA 50-48-103 or MCA 50-48-203 is guilty of a misdemeanor. Upon conviction, the person shall be fined:

- (1) an amount of not less than \$50 or more than \$100 for the first offense;
- (2) an amount of not less than \$75 or more than \$200 for the second offense; and
- (3) an amount of not less than \$200 and imprisoned in the county jail for not more than 90 days for the third and subsequent offenses. MCA 50-48-108

### **B. Civil Penalties**

An establishment that violates this chapter or rules adopted under MCA 50-48-103 or MCA50-48-203 is subject to a civil penalty not to exceed \$500 for each violation.

2. An action to impose civil penalties under this section does not bar actions for injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted under MCA50-48-103 or MCA50-48-203. MCA 50-48-109

### **C. Costs and Expenses**

In a civil action initiated by the regulatory authority under MCA50-48-106 or MCA50-48-109, the court may, by petition of the regulatory authority, order an establishment that is found to be in willful violation of this chapter or a rule adopted under MCA50-48-103 or MCA50-48-203 to pay the costs of investigations and any other expenses incurred. These costs are limited to the direct costs of investigations and other expenses. MCA 50-48-110

## SECTION E – FEE SCHEDULE

**Base Rate for Services** ----- **\$60.00** per hour

### **Plan Review (Based on 3 hr review)**

Motel/Hotel with food service facilities ----- **180.00** + Food service plan review fee  
including continental breakfast based on establishment size (see  
Health Code Chapter 2 fee schedule)

### **Plan Reviews (Based on 2 hr review)**

Motel/Hotel with no food service, ----- **\$120.00** + base rate for each additional  
Bed & Breakfast, Tourist Home, hour  
Rooming/Boarding House

Body Art / Piercing Establishment ----- **\$120.00** + base rate for each additional  
hour

### **Plan Review**

Swimming Pools / Spas ----- **Adopted by reference from ARM  
37.11.11**

### **Other Fees**

Site Visit: (based on 2.0 hr./visit) ----- **\$120.00** + base rate for each additional  
hour

Special or Miscellaneous Inspection: ----- **\$120.00** + base rate for each additional  
(i.e. ownership or endorsement change, hour  
special consultation, follow-up inspection)

### **Annual License Fee**

Body Art ----- **\$135.00**  
Body Piercing ----- **\$135.00**  
Ear Lobe Piercing only ----- **\$ 75.00**

Public Accommodations ----- MCA 50-51-204  
Swimming Pool and Spa Fees ----- MCA 50-53-203